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Fax (571) 273-8300 Pages 5 (including cover sheet)  
Date November 2, 2006  
From Susan M. Pellegrino  
Fax (203) 812-6459 Tel. (203) 812-6450  
Re U.S. Patent Application Serial No.: 10/788,792

Bayer Pharmaceuticals  
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For U.S. Patent Application Serial No. 10/788,792

- 1) Reply to Office Action mailed on July 13, 2006
- 2) Fee Transmittal (PTO/SB/17) [IN DUPLICATE]
- 3) Certificate of Transmission under 37 CFR 1.8
- 4) Fax Cover Sheet

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PTO/SB/97 (05-03)

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For U.S. Patent Application Serial No. 10/788,792

- 1) Reply to Office Action mailed on July 13, 2006
- 2) Fee Transmittal (PTO/SB/17) [IN DUPLICATE]
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PTO/SB/17 (10-04v2)

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**FEE TRANSMITTAL**  
**for FY 2005**

Effective 10/01/2004. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$ 1,020.00)**Complete if Known**

Application Number	10/788,792
Filing Date	February 27, 2004
First Named Inventor	Deepa Eveleigh
Examiner Name	Walter Schlapkohl
Art Unit	1636
Attorney Docket No.	5152

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Jeffrey M. Greenman

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☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 790	2001 395	Utility filing fee	
1002 350	2002 175	Design filing fee	
1003 560	2003 275	Plant filing fee	
1004 790	2004 395	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	

**SUBTOTAL (1)** (\$ )**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 88	2201 44	Independent claims in excess of 3
1203 300	2203 150	Multiple dependent claim, if not paid
1204 68	2204 44	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)** (\$ )

\*\*or number previously paid, if greater. For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 430	2252 215	Extension for reply within second month	
1253 980	2253 490	Extension for reply within third month	
1254 1,530	2254 765	Extension for reply within fourth month	
1255 2,080	2255 1,040	Extension for reply within fifth month	
1401 340	2401 170	Notice of Appeal	
1402 340	2402 170	Filing a brief in support of an appeal	
1403 300	2403 150	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,370	2453 685	Petition to revive - unintentional	
1501 1,370	2501 685	Utility issue fee (or reissue)	
1502 490	2502 245	Design issue fee	
1503 660	2503 330	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(a)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 790	2809 395	Filing a submission after final rejection (37 CFR 1.129(e))	
1810 790	2810 395	For each additional invention to be examined (37 CFR 1.129(b))	
1801 790	2801 395	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

\*Reduced by Basic Filing Fee Paid

**SUBTOTAL (3)** (\$ 1,020.00)**SUBMITTED BY**

Name (Print/Type)	Susan M. Pellegrino	Registration No. (Attorney/Agent)	48,972	Telephone	(203) 812-6450
Signature	<i>Susan M. Pellegrino</i>	Date	November 8, 2006		

(Complete if applicable)

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Attorney Docket No. 5152

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of Decpa Eveleigh, et al.

Serial No.: 10/788,792

Group Art Unit: 1636

Filed: February 27, 2004

Examiner: Walter Schlapkohl

For: Expression Profiles for Breast Cancer and Methods of Use

## CERTIFICATION OF MAILING UNDER 37 C.F.R. 1.8(a)

I hereby certify that this correspondence and any papers referred to as attached are being facsimile transmitted to the U.S. Patent and Trademark Office at (571) 273-8300.

Date: November 8, 2006

  
Susan M. Pellegrino

## RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents  
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Alexandria, VA 22313-1450

Sir:

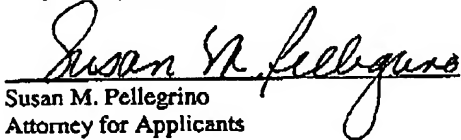
This is in response to the Office Action mailed July 13, 2006. In response to the restriction requirement, applicants elect the claims of restriction Group I, claims 2 and 5, directed to methods for providing a patient diagnosis and methods for distinguishing between normal and disease tissues comprising comparing the level of expression of one or more genes in a first biological sample with one or more genes in a second biological sample selected from SEQ ID NOs: 1-127, for further prosecution in this application. In addition, Applicants elect SEQ ID NOs: 1 and 44 for further prosecution in this application.

Applicants respectfully petition the Commissioner for Patents under the provisions of 37 C.F.R. 1.136(a) to extend the time for filing a response to the Office Action for three (3) month(s) from August 13, 2006 to November 13, 2006. Please charge the fee for the three-month extension of time to Deposit Account No. 13-3372.

If there are any fees due in connection with the filing of the present response, please charge the fees to undersigned's Deposit Account No. 13-3372. If a fee is required for an extension of time not accounted for, such an extension is requested and the fee should also be charged to undersigned's deposit account.

Respectfully submitted,

Date: November 8, 2006

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Attorney for Applicants  
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11/09/2006 MWOLDGE1 00000071 133372 10788792

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